

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

HOWARD LEVEY, et al.	:	
	:	
Plaintiffs	:	
	:	Civil Action No. 06-510 JJF
v.	:	
	:	
	:	
BOAT AMERICA CORP.,	:	
and	:	
DELAWARE BAY LAUNCH	:	
SERVICE, INC.	:	
	:	
Defendants	:	

PLAINTIFFS' REQUEST FOR ADMISSIONS

Plaintiffs, by their attorneys, Charles M. Oberly, III, Esq. and Stephen K. Carr, Esq., pursuant to Rule 36 of the Federal Rules of Civil Procedure, request that Defendant Delaware Bay Launch Service, Inc. (DBL) admits to the truth of the following matters:

1. Prior to April 22, 2005, Tow BoatU.S. assigned DBL as its Cedar Creek, Delaware Responder.
2. Prior to April 22, 2005, Tow BoatU.S. identified DBL as its Cedar Creek Delaware Responder in its website.

3. Prior to April 22, 2005, Tow BoatU.S. assigned DBL with Tower Code Number WT10499A.
4. Prior to April 22, 2005, DBL was doing business under the Tow BoatU.S. service mark.
5. Prior to April 22, 2005, DBL was paid directly by Tow BoatU.S. for towing and ungrounding services performed for the latter's members.
6. Prior to April 22, 2005, Defendant DBL maintained a website homepage containing reference to the relationship between Defendant DBL and Tow BoatUS.
7. The document attached hereto as Exhibit A is a true and accurate copy of the Salvage Invoice # 35345, dated April 26, 2005, submitted to Plaintiff Howard Levey for work performed by DBL on his boat, Seas the Day 2 ("the boat").
8. DBL charged Plaintiff Howard Levey for 4 hours work performed on the boat by a diver at \$150 per hour.
9. DBL did not employ a certificated diver on its staff.
10. DBL did not hire or retain a certificated diver to perform work on the boat on behalf of Plaintiff Howard Levey.

11. DBL did not own or operate a “20’ ops vessel” on April 22 or April 23, 2005.
12. DBL charged Plaintiff Howard Levey for 4 hours work performed on the boat by a “20’ops vessel”.
13. DBL did not hire or charter a “20’ ops vessel” to work on the boat on either April 22 or April 23, 2005.
14. DBL charged Plaintiff Howard Levey \$1,462.50 for “6.5 hours” work performed on the boat by Towboat m/v Breakwater.
15. A portion of the 6.5 hours charged for the Towboat m/v Breakwater’s work on the boat took place on April 22, 2005.
16. DBL responded to a call for assistance from Marvin Kahl on the afternoon of April 22, 2005.
17. DBL’s Towboat m/v Breakwater performed towing service for Marvin Kahl of Cedar Creek Marina sometime after 1700 hours on the afternoon of April 22, 2005.
18. In the late afternoon of April 22, 2005, DBL’s Towboat m/v Breakwater towed a boat containing Marvin Kahl and others from an area on the north side of the Mispillion Jetty to the Cedar Creek Marina.

19. DBL did not charge Marvin Kahl or Cedar Creek Marina for the towing assistance it performed for Marvin Kahl on the afternoon of April 22, 2005.
20. DBL did charge Marvin Kahl or Cedar Creek Marina for the towing assistance it performed for Marvin Kahl on the afternoon of April 22, 2005.
21. DBL's Towboat m/v Breakwater provided no assistance to Plaintiff Howard Levey on the afternoon of April 22, 2005.

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Dated: August 1, 2008

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CERTIFICATE OF SERVICE

I hereby certify that on August 1, 2008, I served the foregoing Plaintiffs' Request for Admissions, by e-mail and U.S. Mail on the following counsel:

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